



# OFFICE OF POLICE OVERSIGHT

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June 25, 2021

Joseph Chacon, Interim Chief of Police  
Austin Police Department  
715 E. 8th Street  
Austin, TX 78701

RE: Response to Proposed and Approved Changes to the General Orders Received June 2021

Dear Chief Chacon:

On June 10, 2021, OPO received notification of proposed changes to the APD General Orders related to the following:

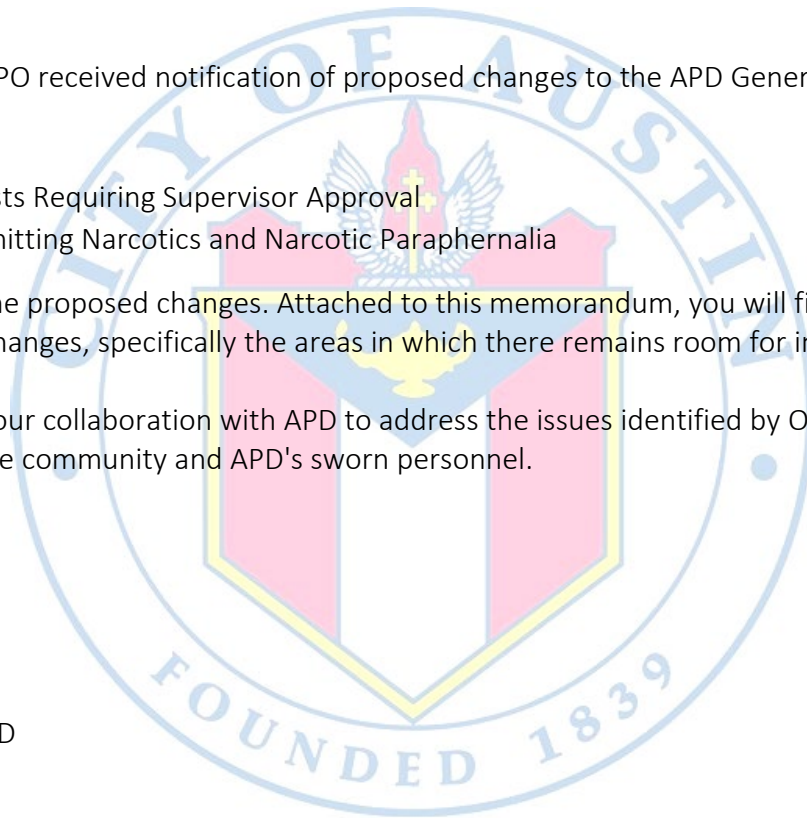
1. 319.1.1 Arrests Requiring Supervisor Approval
2. 618.6.2 Submitting Narcotics and Narcotic Paraphernalia

OPO has reviewed the proposed changes. Attached to this memorandum, you will find OPO's initial feedback on these changes, specifically the areas in which there remains room for improvement.

We look forward to our collaboration with APD to address the issues identified by OPO to improve these policies to benefit the community and APD's sworn personnel.

Sincerely,

Farah C. Muscadin, JD  
Director





OPO Response to Proposed GO Changes

**319.1.1 Arrests Requiring Supervisor Approval**

Requirement to include justification and approving supervisor's name in the arrest report

Proposed revisions would add new arrest guidelines for Possession of a Controlled Substance (POCS) or Delivery of Controlled Substance (DOCS) when the weight of the substance is less than 1 gram. The proposed language would, in such circumstances, also add a requirement for officers to add the following to related arrest reports: (1) the name of the supervisor who approved the arrest and (2) the justification for the arrest in lieu of citation.

The General Orders should be revised to include the above reporting requirements as blanket reporting requirements for all arrests under General Order 319.1.1. However, to the extent that other sections of the General Orders already have such requirements (e.g., GO 308.3 Misdemeanor Citations), the reference here will reiterate the requirements.

Factors should be reviewed to ensure alignment with the Travis County District Attorney policy

On the APD policy revision form, the "brief reason" given for this revision includes a summary of the Travis County District Attorney's policy related to POCS or DOCS cases of less than 1 gram. In addition, the factors to be considered by supervisors in approving an arrest in lieu of a citation are listed as follows:

- Risk of potential harm or violence to the involved persons or the community;
- Connection to a high-priority or higher level felony case; or
- Other articulable special circumstances.

This is described on the APD policy revision form as a non-exhaustive list.

APD's proposed revisions to General Order 319.1.1 state that supervisors should consider the following:

- If an arrest would stop existing criminal conduct (other than the possession case);
- If an arrest would remove the imminent threat of violence or criminal conduct;
- If an arrest would prevent a person from endangering themselves or others; and
- if an arrest would further the investigation of a more serious crime.

The second factor to be considered—whether the arrest would remove the imminent threat of violence or criminal conduct—should be reviewed to ensure that it aligns with the reported guidelines set forth by the District Attorney. As with the first factor, qualifiers may be necessary here. First, a qualifier may be necessary to exclude criminal conduct related to the possession (e.g., POCS less than 1 gram turning into DOCS less than 1 gram). Second, another qualifier may be necessary to clarify that supervisors should



consider whether the arrest would remove the imminent threat of violence or criminal conduct *connected to a high-priority or higher felony case.*

The fourth requirement—whether an arrest would further the investigation of a more serious crime—should also be reviewed to ensure that it aligns with the reported guidelines set forth by the District Attorney. In particular, the reported District Attorney guidelines are specific: the arrest should be connected to a high-priority or higher-level felony case. APD’s guidelines are broader: the arrest would further the investigation of a “more serious crime.” This interpretation potentially goes beyond what would be actionable under the District Attorney’s policy.

#### 618.6.2 Submitting Narcotics and Narcotic Paraphernalia

No immediate comments.

